

**REMARKS/ARGUMENTS**

The office action of February 5, 2004 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 5-6, 18-19, 23, 28 and 34-35 and 38-41 remain pending in this application.

Applicants note with appreciation the indication on the cover page of the action that claims 6, 19, 23, 35, 39 and 40 are allowed. However, only claims 6, 19, 23 and 35 are mentioned in the body of the action as being allowed. Applicants assume that this omission was an oversight.

In reviewing the file, applicants have discovered that they have not received an initialed copy of page 1 of the PTO-1449 form in the Information Disclosure Statement filed with the application on February 18, 2000 making the listed references of record, although an initialed copy of page 2 of the PTO-1449 form was returned with the office action mailed September 26, 2002. In addition, U.S. patent no. 5,920,826 applied by the action to reject the claims discussed below is not of record either, although the corresponding EP application no. 0 748 139 is of record. Accordingly, applicants respectfully request the Examiner to return an initialed copy of page 1 of the PTO-1449 form submitted with the application and to make U.S. patent no. 5,920,826 of record with her next communication. Should the Examiner need another copy of page 1 of the PTO-1449 form submitted with the application, she is invited to contact the undersigned at the number listed below.

Claims 5, 18, 28, 34, 38 and 41 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent no. 5,920,826 to Metso et al. ("Metso"). Applicants respectfully traverse these rejections.

**Claims 5 and 38**

In the prior action, applicants argued that Metso neither teaches nor suggests the claim 5 invention including a first mode in which the phone controls a radio communication between the phone and the base station and a second mode in which the control unit controls the radio communication, wherein the phone comprises a transmitter configured to *transmit status information of the phone to the data terminal when the communication apparatus is operated in*

*the first mode.* In rebutting our argument, the action contends that Fig. 6 and col. 8, lines 18-38 describe this claimed subject matter. Namely, the action contends that pressing the call button 604 on the PC user interface (Fig. 6) which initiates a call between the phone and the base station as described in col. 8, lines 18-38 of Metso, corresponds to the first mode as claimed, where the phone controls a radio communication between the phone and the base station. In addition page 3 of the action alleges that Metso discloses,

the second mode [as claimed], i.e. the control unit controlling the radio communication in fact encompasses the first mode i.e. the phone controlling the radio communication link to the base station. Further, Fig. 6 also displays the signal strength and battery indication, which is possible when the phone is in the first mode i.e. controlling the radio communication with the base station.

Contrary to the action's assertion however, pressing the call button 604 on the PC user interface which initiates a call between the phone and the base station corresponds to the control unit 504 of the PC controlling the radio communication rather the phone controlling the radio communication. Tellingly, Metso affirmatively states at col. 8, lines 21-26,

On this page [phone memo 600 - user interface of the PC], the user can control the phone utilizing the personal computer as easily as by pressing the buttons of the phone physically with a finger. . . . The phone can be operated by moving a cursor, e.g. a mouse, to the required function or number and activating that function.

(Emphasis supplied). Thus, Metso lacks a teaching or suggestion of the phone comprising a transmitter configured to transmit status information of the phone to the data terminal *when the communication apparatus is operated in the first mode* as recited in claim 5. Claim 38 includes the identical recitation and for at least the same reasons as claim 5 is patentably distinct from Metso.

### **Claims 18 and 28**

Claim 18 is directed to a phone and calls for, among other features, a status information transmitting unit configured to transmit status information of the phone to the data terminal to make the data terminal display the transmitted status information while a communication mode in which the phone controls a radio communication between the phone and the base station is set.

As ostensibly discussed with respect to claim 5, Metso is devoid of a teaching or suggestion of transmitting status information of the phone to the data terminal to make the data terminal display the transmitted status information *while a communication mode in which the phone controls a radio communication between the phone and the base station is set*. For at least this reason, claim 18 is patentably distinct from Metso.

Analogous to claim 18, claim 28 is directed to a data terminal including, among other features, a status information display unit configured to cause the display of the control unit to display status information of the phone transmitted from the phone *while a communication mode in which the phone controls a radio communication between the phone and the base station is set*. Thus, for substantially the same reasons set forth with respect to claim 5, claim 28 is patentably distinguishable from Metso.

#### **Claim 34**

Claim 34 is directed to a phone in a radio communication including, among other features, a transmitter configured to transmit status information of the phone to the data terminal, and a controller configured to cause the data terminal to display the transmitted status information when the radio communication system is operated in the *first mode in which the phone controls a radio communication between the phone and the base station*. For reasons similar to those described above, Metso lacks a teaching or suggestion of such a controller as recited in claim 34. Hence, claim 34 is patentably distinguishable from Metso.

#### **Claim 41**

Claim 41 is directed to a data terminal and calls for, among other features, status information display control means for, when status information representing an operation state of the phone is transferred from the phone *while a communication mode in which the phone controls a radio communication between the phone and the base station is set, displaying the transferred status information on a display unit*. Thus, for substantially the same reasons set forth with respect to claim 5, claim 41 is patentably distinguishable from Metso.

Appln. No.: 09/506,449  
Amendment dated May 3, 2004  
Reply to Office Action of February 5, 2004

**CONCLUSION**

It is believed that no fee is required for this submission. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

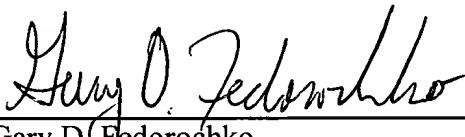
All rejections having been addressed, applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,

BANNER & WITCOFF, LTD.

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By:

  
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